

**Proposed Resolution for Consideration by the CollegeCounts Board at its meeting  
on February 15, 2012**

**WHEREAS**, the ACES Program (marketed as the CollegeCounts 529 Fund) is established as a college savings alternative whereby contributors open savings accounts according to savings agreements for the payment of qualified higher education costs for a designated beneficiary at eligible educational institutions pursuant to Section 16-33C-10, Code of Alabama; and,

**WHEREAS**, pursuant to Section 16-33C-10(g), Code of Alabama, the ACES Opportunity Enhancement Fund has been established for the purpose of enhancing and providing higher education opportunities and programs, as the ACES board deems necessary and appropriate; and,

**WHEREAS**, the Opportunity Enhancement Fund is authorized to receive monies from individuals, private business entities, public corporations, and contractual agreements with service providers; and,

**WHEREAS**, the Alabama Higher Education Loan Corporation ("AHELC") is a tax-exempt organization under Section 501(c) of the Internal Revenue Code created for the purpose of funding higher education student aid by means of scholarships, grants or loans or similar means; and,

**WHEREAS**, AHELC has residual funds that may be used for specific educational or charitable purposes;

**NOW THEREFORE, BE IT RESOLVED** that the Board, after careful consideration, does hereby authorize the Treasurer to present a proposal to the AHELC Board of Directors to provide its residual funds to the Opportunity Enhancement Fund and acknowledges the following:

1. That all AHELC monies be expended for the purposes authorized under Section 16-33C-10(g).
2. That if it is determined by the appropriate state or federal government agency that the AHELC monies have been improperly expended by the ACES Board, the ACES Board agrees to pay any amount, including any penalty and/or interest, that the appropriate state or federal government agency determines that AHELC would be liable to pay because of an incorrect or improper expenditure of AHELC monies.
3. That that no portion of the Grant Funds will be used for any of the following: (1) to lobby or otherwise attempt to influence legislation; (2) to influence the outcome of any specific public election or participate or intervene in any political campaign on behalf of any candidate for public office, or conduct, directly or indirectly, any voter registration drive; (3) to distribute funds to any entity or individual other than as detailed in this Agreement; or, (4) any other purpose that may jeopardize AHLEC's status as a tax-exempt entity.